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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

James C Downing,

V

Southstar Funding, LLC

The lenders Successors MERS

US Bank National Association

\_\_\_\_\_  
James C Downing  
Inpropria Persona  
114 Vincent St.  
Inkster, MI 48141

Case: 2:08-cv-12545  
Judge: Taylor, Anna Diggs  
MJ: Majzoub, Mona K  
Filed: 06-16-2008 At 10:59 AM  
CMP DOWNING V SOUTHSTAR FUNDING ET  
AL

ATTORNEY FOR THE DEFENDANT  
Trott & Trott P.C  
Attorney for Servicer  
31440 Northwestern Hwy, Suite 200  
Farmington Hills, MI 48334

\_\_\_\_\_  
COMPLAINT

**Now comes** James C Downing, in Properia Persona, hereinafter “plaintiff” requesting jurisdiction under the Authority of 28 USC 1331, and alleges the following:

1. Plaintiff is the owner of property located in: City of Inkster, County of Wayne, Michigan: Lot 17, Slavik’s Daly Subdivision., as recorded in Liber 74 on page 21 of Plats., Wayne County Records. Commonly known as: 114 Vincent St.
2. That on February 14, 2005 plaintiff entered into an unconscionable contract with Southstar Funding.
3. Plaintiff **issued** the instrument to Southstar Funding, and they treated the

instrument as a check.

4. Plaintiff alleges that when Southstar Funding did not disclose the truth that Plaintiff was the maker and drawer of the instrument, this contract became unconscionable UCC§ 2-302.
5. Plaintiff alleges do to the fraud perpetuated by Southstar Funding and MERS, US Bank National Association as Trustee for Credit Suisse First Boston, is not bona fide holder of the Instrument or physically in possession of the instrument without allonges.
6. Plaintiff alleges accord and satisfaction has been reached in accordance with UCC 3-311(d). Plaintiff alleges Southstar Funding and MERS knew the instrument tendered at closing provided full satisfaction for 114 Vincent St upon extension of my signature as Maker and Drawer of the Note.
7. Plaintiff alleges Southstar Funding intentionally attempted to conceal the true terms and conditions of the alleged loan and I had opportunity, at that time, to obtain knowledge of the true terms and condition which are similar to stealing, counterfeiting, and swindling.
8. Plaintiff is Entitlement holder.
9. Plaintiff is identified in the records of a securities intermediary as the person having a security entitlement against the securities intermediary. A person acquiring a security entitlement by virtue of UCC Section 8-501(b)(2) or (3), that person is the entitlement holder.
10. Plaintiff alleges because the defendants can not prove the existence of the note,

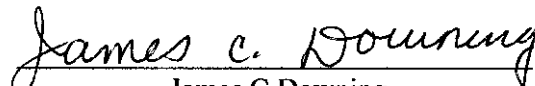
there is no note to recover on.

11. Plaintiff alleges US Bank National Association as Trustee for Credit Suisse First Boston,( assignee) is servicer to a void contract.
12. Plaintiff alleges that the defendants are assisting and servicing in making loans of credit with the intent of creating credit as money and laundering bank credit that is received directly or indirectly. This collective activity is unconstitutional, unlawful, in violation of common law, US Code and the principles of equity.
13. Plaintiff alleges that I may have a claim for relief under Civil Rico Federal racketeering laws (USC Title 18 § 1341 USC Title 18 § 1346).
14. When defendant purports that they are holder in due course and this is evidenced by the foreclosure preceding that were brought against plaintiff, they are guilty of committing fraud.
15. Plaintiff alleges the agents for Southstar Funding made false representation of material facts with intent that it shall be acted on by US Bank National Association as Trustee for Credit Suisse First Boston to be enforced upon the Plaintiff. Such acts constitute 'fraud,' and entitles the deceived party to avoid the contract or recover damages." Barnsdall Refining Corn. v. Birnam wood Oil Co., 92 F 2d 817
16. It has been settled beyond controversy that a national bank, such as Southstar Funding , under federal law being limited in its powers and capacity, cannot lend its credit by guaranteeing the debts of another. All such contracts entered into by its officers are ultra vires . . ." Howard & Foster Co. v. Citizens Nat'l Bank of Union, 133 SC 202, 130 SE 759(1926).

17. Plaintiff asserts to claim to be a secured creditor one must provide proof. A security interest is perfected by possession of the note or instrument. The Defendants can not provide the Original note for examination. Therefore, the defendant can not be the holder.
18. US Bank National Association as Trustee for Credit Suisse First Boston, ( assignee) is in violation of Title 18 color of law when attempting to act upon statues which are based on imaginary substance created not by fact, reality, or law.
- 19 Plaintiff will dismiss this case voluntarily if Southstar Funding forwards plaintiff a affidavit swearing under the penalty of perjury that Southstar Funding loaned money to the plaintiff.

WHEREFORE I pray that this honorable court finds each Defendant has committed these offenses and find each defendant guilty of conspiracy under the color of law, extortion, racketeering, FRAUD, Usury and award quiet title, punitive and statutory damages in the amount of \$5,555,555.55 per defendant.

Dated the 11<sup>th</sup> day in June 2008

  
James C Downing

CIVIL COVER SHEET County in which action arose WAYNE

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

James C. Downing

(b) County of Residence of First Listed Plaintiff WAYNE  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

114 Vincent, Eukster MI 48141

## DEFENDANTS

Southstar Funding LLC et. al

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                                       |   |                            |                            |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
|   | PTF                                   | DEF                                   |   | PTF                        | DEF                        |
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1            | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input checked="" type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$CHECK YES only if demanded in complaint:  
JURY DEMAND: ☐ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

## FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

## PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

☐ Yes

☐ No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes

☐ No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

Notes :

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